

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY

Santa Fe, New Mexico

June 11, 2003

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico was called to order on this date at approximately 4:00 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer

Members Excused:

Mayor Larry A. Delgado
Councilor Rebecca Wurzbarger

APPROVAL OF AGENDA

City Manager Jim Romero requested that Item G2 on the Evening Session agenda be postponed to the next meeting (127 Duran Street Appeal). He said the parties involved in the negotiations are very close to reaching agreement but need another two weeks.

Mayor Pro Tem Lopez asked that Presentations include the following addition: d) Rodeo de Santa Fe.

**Councilor Bushee moved approval of the Agenda, as amended.
Councilor Chavez seconded the motion, which passed 5-0 by voice vote,
with Councilor Bushee, Councilor Chavez, Councilor Heldmeyer, Councilor**

Lopez and Councilor Pfeffer voting for, and none against. [Not present for this action: Councilor Coss and Councilor Ortiz.]

APPROVAL OF CONSENT CALENDAR

Upon motion by Councilor Bushee, seconded by Councilor Chavez, the Consent Calendar, as amended, was approved by Roll Call vote:

For: Councilor Bushee; Councilor Chavez; Councilor Heldmeyer; Councilor Lopez; Councilor Pfeffer.

Against: None.

Abstaining: Councilor Coss.

Not present during this action: Councilor Ortiz.

- a) Bid No. 03/37/B — Traffic Calming Projects Cycle Two, Phase One, R.L. Leeder.
 - 1). Request for Approval of Budget Adjustments — Grant Fund/Project Fund.
- b) [Removed by Councilor Pfeffer for discussion.]
- c) Request for Approval of Purchase Option — Refuse Bags (Bid No. 02/47/B) for Solid Waste Division and City Internal Use; Resourceful Bag & Tag, Inc.
- d) Request for Approval of Grant Award — Shelter Plus Care (SPC) Program; U.S. Department of Housing and Urban Development.
 - 1) Request for Approval of Budget Increase — Grant Fund.
 - 2) Request for Approval of Professional Services Agreement — SPC Grant Administration; The Life Link/La Luz Shelter.
- e) Request for Approval of License Agreement — Horse-drawn Carriage Services; Bear Creek Adventures, LC.
- f) Request for Approval of Professional Services Agreement — Community Work Service Program Coordinator for Municipal Court; U.S. Hispanic Leadership Alliance, Inc.
 - 1) Request for Approval of Professional Services Agreement — Computer Technical Services; Sage Industries, dba Andrew Lemert.

- 2) Request for Approval of Service Agreement — Monitoring Equipment and Services for Home Detention Program; Sentinel Offender Services.
- g) Request for Approval of Modification No. 001 to Collection Agreement — Buckman Direct Diversion Project; USDA Forest Service; Santa Fe National Forest.
- h) Request for Approval of Amendment No. 2 to Professional Services Agreement — City Wide Source of Supply Improvement Program; Alpha Southwest, Inc.
 - 1) Request for Approval of Budget Adjustment — Water Projects Fund.
- i) Request for Approval of Amendment No. 2 to Professional Services Agreement — Security Services at Municipal Airport; Akal Security, Inc.
- j) Request for Approval of Professional Services Agreement — Paratransit Services for Santa Fe Ride Program (RFP No. 2003/20/P); Capital City Cab.
 - 1) Request for Approval of Lease Agreement — Paratransit Vehicles; Capital City Cab.
- k) Request for Approval of Professional Services Agreement — Rental of Uniforms for Transit Department (RFP No. 2003/27/P); Unifirst Corp.
- l) Request for Approval of Sole Source Procurement and Professional Services Agreement — Operate Landlord/Tenant Hotline for Fair Housing Program; New Mexico Landlord/Tenant Hotline.
- m) Request for Approval to Publish Notice of Public Hearing for July 9, 2003 City Council Meeting:
 - 1) [Removed by Councilor Pfeffer for discussion.]
 - 2) Request for Approval of Judge Pro Tems for FY 2003-04 — Eugene Romero, Retired Magistrate Judge; Gail Glasser, Current Judge Pro Tem and Judge Art Encinias, Retired First Judicial District Judge.

APPROVAL OF MINUTES: May 28, 2003

In order to allow time for corrections, Mayor Pro Tem Lopez asked that this item be postponed to the next meeting.

Councilor Pfeffer so moved. Councilor Coss seconded the motion, which passed 7-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer voting for, and none against.

PRESENTATIONS

Proclamation — Deputy Chief Kim Ko’omoa

Mayor Pro Tem Lopez read a proclamation declaring today, June 11, 2003, as Kim Ko’omoa Day in Santa Fe.

The proclamation stated that Kim Ko’omoa joined the Police Department on March 10, 1984; and since that time has worked patrol, investigations, internal affairs investigator, major and deputy chief, and will be retiring as Deputy Chief of Police after 20 years of service.

Muchas Gracias — Northern New Mexico Junior Olympic Volleyball Champions — Santa Fe IMPACT.

Mayor Pro Tem Lopez stated that this group of 14-year-old girls would go to the National Volleyball Tournament in Atlanta the week of June 24, the first team to qualify for this tournament since inception of the program.

Muchas gracias certificates were presented to Felicia Prada, Kelly Borrego-Ojinaga, Mallory Daneen, Sarah Post, Hannah Rikoon, Kerilyn Salazar, Jordan Shultz, Heather Tassel, and Britney Stokes. Also present was Coach Nhu Caiozzi.

Proclamation — “National Buckaroo Ball Week.”

No one was present to represent this group. [Mayor Pro Tem Lopez later read a proclamation recognizing that, for the past nine years, the children of Santa Fe County have been the direct beneficiaries of over \$4 million given to over 62 agencies through the proceeds of the Ball; and recognizing that this is the tenth year of the Buckaroo Ball.]

Rodeo de Santa Fe

Representatives Linda Borrego and Joe Ortiz (Rodeo Parade chairman) were present to announce the schedule of events, parade route (with new route and lineup location), and other details of the Rodeo.

CONSENT CALENDAR DISCUSSION

Bid No. 03/61/B — Rain Barrels for Water Division; Home & Garden Innovations.

- 1) Request for Approval of Purchase Agreement; Home & Garden Innovations.**
- 2) Request for Approval of Budget Adjustment — Water Enterprise Fund.**

Councilor Pfeffer stated that Dan Raker of The Rain Barrel Guy, along with other rain barrel vendors in Santa Fe, have proposed some interesting ideas in terms of how the City might be able to promote water conservation through an alternative program. He said Mr. Raker has suggested coupons, vouchers, or some cooperative way in which the City and local small businesses can mutually benefit.

Councilor Pfeffer moved to postpone this item to July 9 to allow time to look at this issue in greater detail.

Councilor Coss seconded the motion.

Councilor Heldmeyer expressed concern that this delay could result in people not getting rain barrels until after the rainy season.

In the course of discussion, City Manager Jim Romero indicated that this item could be placed on the June 25 agenda given the need to move it forward as soon as possible.

Councilor Ortiz moved an amendment to postpone this item to the June 25 meeting.

The amendment was accepted as friendly.

Councilor Chavez spoke against the motion. He said, "I think it's safe to say that the City in effect jumpstarted an industry that is interested in water conservation.... and I don't know that holding [this contract] up is going to be that beneficial, because it seems to me that there's going to be enough business for those that are interested as we move forward."

Councilor Chavez commented that he doubted the City would be placing a hardship on these vendors by purchasing 1,000 rain barrels as part of a program

that the City started more than 18 months ago. He added that many of the vendors were not in business at the inception of the program — and while the City should be commended for leading the way in this conservation effort, “now it seems that we’re being sort of chastised for that.”

Councilor Chavez pointed out that the City solicited bids on the barrels, and so there was no attempt to exclude local vendors. He suggested that the City allow the process it set in motion to run its course “and as we move forward, to bring the local vendors in to talk about how we would enhance the conservation efforts we’ve already set in place.”

Councilor Heldmeyer added that the rain barrel issue came up at the Public Works Committee this week as a “very, very, very last-minute thing under Matters From the Committee rather than even being on the agenda.”

Councilor Heldmeyer said she would support a postponement to the June 25 meeting but stressed that whatever is brought forward at that time will have to be acted on without delay.

Mr. Romero said that, in response to the calls from local rain barrel vendors, he has recommended to Water Division director Galen Buller that the City take a good look at the bid specifications next year in order to consider alternatives such as a voucher or coupon program.

[Letter from Dan Raker of The Rain Barrel Guy, dated June 9, 2003, and signed by eight vendors, submitted with these minutes as Exhibit “A.”]

Councilor Bushee asked Water Division representative Dan Ransom how quickly the rain barrels would be delivered if the Council approves the purchase agreement with Home & Garden Innovations at today’s meeting, and Mr. Ransom responded that the distributor is waiting for the award of the bid and is ready to deliver rain barrels.

Councilor Bushee pointed out that the City needs to come up with a comprehensive voucher program for its entire water conservation program and not just for rain barrels. She said it should be “for everything from front-loading washing machines to conversion to xeric landscaping, to self metering, to anything we can come up with.”

Councilor Bushee added that it would take more than two weeks to come up with an overall system that is fair and equitable in terms of including other vendors who may be interested.

Councilor Bushee said, “I’m just anxious to get these rain barrels going this cycle, and it’s the charge we gave to our staff. I honestly think that it’s probably

going to be a more positive outcome and outlook than most of the vendors think even if this contract went through right now, because each household is limited to one rain barrel, and everybody's got at least a half dozen *canales*..."

Mayor Pro Tem Lopez suggested that the Council go ahead with this order and that staff in the interim work on a voucher program to go into effect after the last of the rain barrels from this procurement is gone.

Councilor Pfeffer said he did not want to see the City "close the door on some good ideas that come up." He agreed that this was a last-minute thing, but wanted to confess "that these folks have been trying to reach me for better than a month and I've been lax in getting back to them."

Councilor Pfeffer pointed out that the City would be spending almost \$100,000 on 1,250 barrels, is subsidizing them to the public, "and we're also acting as the loss leader for the private sector."

Councilor Heldmeyer asked Mr. Ransom how soon the rain barrels would be delivered assuming this contract is approved today, and Mr. Ransom responded that it probably be a couple of weeks. Councilor Heldmeyer said that waiting until the June 25 Council meeting would mean, then, that the barrels could not be expected until mid July, and Mr. Ransom agreed.

Councilor Heldmeyer stated that she has been contacted by some of the people involved, but none of them suggested that any alternatives be considered — the message to her was just "don't do it." She said she first heard about this alternative program two days ago when Mr. Raker called her.

Councilor Chavez said Mr. Raker has contacted him, "and I have to say publicly that my position then isn't any different than what it is now." He added that, when he talked to Mr. Raker, he was pleased to see the industry organizing and being proactive rather than seeing individual businesses competing against one another. He said, "There have been some individuals who have brought that industry together to come forward with these ideas, and that has to continue — this can't be a deal-breaker here."

Councilor Bushee recommended that the program include cisterns, which perhaps the City could purchase in volume to get a lower price, store them somewhere, and display them at the vendors' locations. She said a California firm will sell them for \$500 apiece if they are purchased in a large quantity — and while that is relatively expensive, it may make them accessible to people unwilling or unable to pay the usual price of at least \$1,000 for a cistern.

The motion to postpone this item to the June 25 meeting was defeated on the following Roll Call vote:

For: Councilor Coss; Councilor Ortiz; Councilor Pfeffer.

Against: Councilor Chavez; Councilor Heldmeyer; Councilor Lopez; Councilor Bushee.

Councilor Bushee moved approval of this request, including Items 1 and 2. Councilor Chavez seconded the motion.

Councilor Lopez proposed an amendment that the City pursue development of an alternative program after the barrels are gone, whether it be rain barrels or something else, but as quickly as possible.

The amendment was accepted as friendly.

The motion for approval, as amended, passed on the following Roll Call vote:

For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez.

Against: None.

**m) Request for Approval to Publish Notice of Public Hearing for
July 9, 2003, City Council Meeting:**

**BILL NO. 2003-15: An Ordinance Amending Chapters 21, 22
and 25 SFCC 1987 and Creating a New Section 15-1 SFCC
1987 Regarding Utility Billing; Making Such Other Amendments
as Necessary and Making Miscellaneous Corrections.
(Councilor Lopez and Councilor Heldmeyer)**

Councilor Pfeffer asked what the City is doing about groups of homes on a master meter being billed at commercial rates when they are residences.

Utility Billing Division director Dave Schmiedicke responded that staff presented a pilot program at the last Public Utilities Committee meeting. He said about 23 units are interested in being involved at this point, and this will be expanded to at least 60, to see if the City can subsidize the cost of changing from master meters to individual meters.

Councilor Pfeffer asked if the City is looking at an alternative in situations where it is physically difficult or impossible to change to individual meters.

Mr. Schmiedicke responded that staff is looking at a meter device that can be put in a residence between the incoming line and water heater to measure inflow, with a remote meter read attachment to that. He added, though, that it would cost \$300-\$500 to install one; additionally, the City would have to gain access to the meter at least once annually.

Councilor Pfeffer moved for approval. Councilor Ortiz seconded the motion, which passed on the following Roll Call vote:

For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez; Councilor Coss.

Against: None.

MATTERS FROM THE CITY MANAGER

None.

MATTERS FROM THE CITY ATTORNEY

Executive Session Pursuant to §10-15-1 (H) (7) for the Limited Purpose of Discussing Matters Subject to Attorney-client Privilege Pertaining to Pending Litigation:

- a) City of Santa Fe v. Public Service Company of New Mexico and Avistar, Inc.**
- b) Genoveva Chavez Community Center CIP Project No. 507. City of Santa Fe v. P2RS Group et al.**

City Attorney Bruce Thompson asked the Council to go into Executive Session to discuss the two matters cited in this agenda item.

Councilor Bushee moved for approval. Councilor Ortiz seconded the motion, which passed on the following Roll Call vote:

For: Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: None.

RECESS: 5:00 p.m.

EVENING SESSION

The Evening Session of the City Council Meeting was called to order at approximately 7:00 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer

Members Excused:

Mayor Larry A. Delgado
Councilor Rebecca Wurzbarger

MOTION TO COME OUT OF EXECUTIVE SESSION

Councilor Ortiz moved to come out of Executive Session, and that nothing was discussed in Executive Session that was not on the agenda. Councilor Pfeffer seconded the motion, which passed 5-0 by voice vote, with Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer voting for, and none against. [Not present for this action: Councilor Bushee and Councilor Chavez.]

Councilor Ortiz moved to accept the settlement agreement as proposed and recommended by the City Attorney's Office in the case of City of Santa Fe v. P2RS Group et al.

Councilor Heldmeyer seconded the motion, which passed on the following Roll Call vote:

For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer.

Against: None.

Not present for this action: Councilor Bushee; Councilor Chavez.

PETITIONS FROM THE FLOOR

None. [A petition was made at the end of the Evening Session. See page 25.]

APPOINTMENTS

Traffic Calming Program Evaluation Task Force

Mayor Pro Tem Lopez stated that Mayor Delgado has recommended the appointment of Mary Granzow, Community-at-large representative.

Councilor Pfeffer so moved. Councilor Lopez seconded the motion, which passed 6-0 by voice vote, with Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer voting for, and none against. [Not present for this action: Councilor Bushee.]

PUBLIC HEARINGS

Request for Approval from Maloof Distributing, LLC, for a Wholesaler Liquor License to be Located at Maloof Distributing-Santa Fe, 2710 Sawmill Road.

City Clerk Yolanda Vigil called the Council's attention to staff's recommendation that it be noted that Maloof Distributing will be required to comply with the City's litter and noise ordinances as a condition of doing business in the City.

There was no public comment.

Councilor Ortiz moved for approval. Councilor Pfeffer seconded the motion, which passed on the following Roll Call vote:

For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Chavez; Councilor Coss.

Against: None.

Not present during this action: Councilor Bushee.

[It was determined that not all staff members and planning representatives were present for any of the remaining public hearings, and Councilors elected to continue with the Afternoon Session Agenda.]

MATTERS FROM THE GOVERNING BODY

Councilor Pfeffer

Councilor Pfeffer announced that the GCCC has extended public skating well into prime time, and there is a good block of time on Friday afternoon, Friday night, Saturday afternoon, Saturday night, and Sunday afternoon.

Councilor Pfeffer said there will be a wonderful celebration of Old Glory on Flag Day, June 14, starting at 10:30 a.m. at Fort Marcy Park.

Councilor Coss

Councilor Coss announced a community water fair event on June 28 at the Community College.

Councilor Ortiz

Councilor Ortiz distributed a resolution directing staff to adopt policies and procedures for public access television so the City can formalize the procedures it has had in place but has never adopted. [Mayor Pro Tem Lopez stated that public radio should be added to this, and Councilor Ortiz concurred.]

Councilor Ortiz asked the City Manager to look into the creation of a dog park at Tierra Contenta, and three or four people have approached him asking for it.

Councilor Ortiz asked how the JPA is proceeding with the Schools and Mr. Romero responded that a team has been put together with a tentative meeting scheduled later this week. He said the team includes Mike Lujan, Ron Shirley, Bill Rougement, Greg Neal and Maria Clokey.

Councilor Chavez

Councilor Chavez announced that, on June 24, from 7:00-9:00 p.m., residents in Las Acequias, Tierra Contenta and in the general Airport Road area, as well as individual developers, will meet at Cesar Chavez Elementary School gym to discuss issues affecting them.

Councilor Heldmeyer

Councilor Heldmeyer distributed an ordinance change to Chapter 25 (water chapter) that would put limitation on private sports fields and golf courses done with natural turf. She said there may be additional changes necessary to Chapter 14, as well, and asked that this item go to the next Public Works meeting; at that point, staff may have more information on how much of Chapter 14 will have to be changed.

Mayor Pro Tem Lopez

Mayor Pro Tem Lopez noted that the Cathedral Park dedication is scheduled on June 21 between 9:00 and 10:30 a.m., with all-day-long entertainment. She said other dignitaries would be present, including Hon. Gov. Bill Richardson and the ambassador to the U.S. from Spain.

Mayor Pro Tem Lopez asked Mr. Romero what people with automated pickup service should do if the sanitation trucks don't come by on their scheduled day, and Mr. Romero responded that people should call Solid Waste immediately, and should leave their trash in the container. He explained that Solid Waste was short-staffed on Friday and crews had to continue the following day.

Mr. Romero also asked people to leave their recyclables out, as well, if there is no pickup. He said the recyclables would be picked up the following day.

CONSIDERATION OF BILL NO. 2003-18: ADOPTION OF ORDINANCE NO. 2003-14:

Case #ZA 2003-01. Frank Building Rezoning. Robert Frank Requests Rezoning of Approximately 0.200 Acres Located at the Northeast Corner of Agua Fria Street and St. Francis Drive From the Current Zoning of RM-1 (Multi Family Residential, 21 Dwelling Units Per Acre) to C-4 (Limited Office and Retail District). The Application Includes a Request for Development Approval for the Construction of an Office Building of Approximately 1,454 Square Feet With Variances to Driveway Width, to Allow Parking in the Front Yard and to the Required Landscaping. The Property is Designated on the Future Land Use Diagram of the 1999 General Plan as "Office" and is Located Within the C-4 "Overlay Zone."

City Planner Greg Smith reported that staff and the Planning Commission recommend approval of this case with the following conditions:

1. The following variances are hereby approved, based on the findings required under Section 14-3.16 SFCC 2001:
 - A. Location of three parking spaces within the street yard (Section 14-7.1[A] Table 14-7.2-1 SFCC 2001, C-4 District Minimum Front Yard Setback Requirements).
 - B. Driveway width less than twenty feet (Section 14-9.2[E][2] SFCC 2001).
 - C. Encroachment of driveway and building into required 15-foot landscaped buffer area (Section 14-7.4[D][4][e] SFCC 2001).
2. The applicant shall provide signage or other traffic control measures to the approval of the City Transportation Engineering Division as noted in the memo dated 3/17/03.
3. A screen wall at least 42" high shall be constructed along the east property line. Screening may be attached to the existing wall on the adjoining property, if approved by that property owner.
4. The narrowest portion of the driveway shall have an unobstructed width of 10'-0".
5. A note shall be placed on the development plan that development of the property will be subject to the Water Allocation and/or Water Offset Retrofit provisions of Ordinance No. 2002-29 and Resolution No. 2002-55 at the time of permit application or water hookup request. The proposed alternative water budget will be subject to administrative approval at the time of construction permit approval.

Mr. Smith stated that, procedurally, a C-4 rezoning always includes a development plan approval. He said the development plan in the Council packet reflects minor revisions to the parking layout as directed by the Planning Commission when it granted approval.

Mr. Smith continued, "The property to be rezoned is a small triangular parcel at the corner of Agua Fria and St. Francis Drive. The developer proposed to utilize an existing foundation that is left over from a building that burned a number of years ago.

"Staff report to the Commission went into some detail about the justification of the variances that are requested along with the development plan. The Commission does recommend approval of all three of the variances that were requested by the applicant.

"The proposed development plan utilizes a driveway to Agua Fria rather than to St. Francis; in the opinion of the Traffic Engineer and the City Planning Commission, that access will be preferable given that it's probably not justified to create an accel and decel lane for such a low volume of traffic on St. Francis because there is a relatively high speed of traffic on St. Francis in that stretch of road.

"The project is consistent with the General Plan, it's consistent with the rezoning criteria, and staff and the Commission recommend approval."

There was no one wishing to speak against this request from the public.

Applicant Robert Frank was duly sworn and stated that he agreed with all of the conditions of approval.

Responding to questioning from Councilor Heldmeyer, Mr. Smith stated that the changes to the plan in response to Planning Commission direction have been to the layout of the parking spaces behind the building. He said there has been no significant modification to the driveway, which allows for two-way traffic right at the approach to Agua Fria, then narrows to one lane, and then opens back up to two lanes after it is past the building.

Councilor Heldmeyer asked if it is still the case that it would take three maneuvers to get out of the handicap parking space.

Mr. Smith responded that it would likely take two or three maneuvers, depending on the size of the vehicle. [Later, Mr. Smith clarified that, according to the Planning Commission minutes, the parking space requiring two or three maneuvers referred to by Councilor Heldmeyer was not a handicap parking

space but rather was the most easterly of the standard parking spaces in the back parking lot.]

Mr. Smith added that City parking standards do not have criteria on the number of maneuvers to enter or exit a parking space.

Councilor Heldmeyer asked Mr. Frank why he chose these variances as opposed to designing the building differently.

Mr. Frank reviewed the plan and explained that he chose a ten-foot driveway as opposed to decreasing the size of the building because he wanted to use an existing footprint.

Councilor Heldmeyer asked Mr. Frank if he was keeping any of the original building, and Mr. Frank responded that he hoped to, but first had to have the stem walls tested. He said he would tear them out if he could not use them. Councilor Heldmeyer asked Mr. Frank if he has taken a request for demolition to the H-Board, and Mr. Frank responded that he has not.

Project architect Greg Allegretti, who was duly sworn, further clarified that there has been no request for demolition because there is no building on the foundation. He stated that they would require a demolition permit if they wanted to remove the foundation, but they want to keep it and build on top of it.

Mr. Allegretti said he recognized that he would have to go back to the H-Board for permission if he wanted to get rid of the foundation.

Councilor Chavez observed that the site plan shows a detention pond, and wondered if the applicant has studied the possibility of installing an underground cistern in place of the detention pond to support landscaping on site.

Mr. Allegretti responded that the design uses a passive direction of water to the landscaped areas as provided for in City Code. He said there will be roof drainage and parking lot runoff into planted areas.

Councilor Chavez stated that some detention ponds end up being filled in to create additional yard space. He said, "I'm just wondering if a below ground cistern would be better than a surface detention pond."

Mr. Allegretti responded, "This is certainly a possible thing. We can do that if you prefer to use an active detention tank."

Councilor Chavez said, "Well, it's something that we're trying to encourage as we continue to deal with the drought." He said detention ponds also end up being eyesores if they aren't kept clean, and they will

end up being empty anyway if it doesn't rain. He said, "I don't know if that could be a condition of approval, or if that's something that you would accept as a condition of approval."

Mr. Allegretti said that would be acceptable.

Councilor Bushee commented to Mr. Allegretti that the detention pond may be necessary because of the asphalt parking lot, and Mr. Allegretti agreed it would be necessary anyway because it is the low point of the land.

Councilor Bushee said she was sure the applicant would use as much flexibility as possible within the existing ordinance, adding that Councilor Chavez was simply suggesting a system that would employ catchment and reuse.

Councilor Bushee asked Traffic Engineer Rick Devine if he considered the driveway arrangement and conditions safe, given the limitations, and Mr. Devine responded that staff did a very brief analysis of the traffic. He stated that this proposal would result in less traffic than would be the case in a residential situation.

Councilor Bushee asked Mr. Devine if he was "happy" with the circulation within the site, and Mr. Devine said, "Obviously, it's not ideal...but the peak hour traffic is estimated at two vehicles, one in and one out, in the a.m. and the p.m."

Councilor Bushee moved for approval, with the variances and all the conditions. Councilor Pfeffer seconded the motion.

Councilor Coss asked if that included Councilor Chavez's recommendation, and Councilor Bushee responded, "Yes, I mean, within what they can work within the ordinances, because right now there's a flexibility allowed for, but when it comes to improving surfaces, there are certain requirements. So as long as staff can work with them, yes."

Councilor Heldmeyer moved an amendment to add a Condition 1d to follow the three variances:

- D. These variances are contingent upon the building footprint being placed on the existing stem walls; and if demolition occurs, and the footprint of the building changes, they have to come back for approval of the variances.

Councilor Heldmeyer said her point was that the variances being granted are based on this particular site plan; and if it changes, and they are building a different building, “then maybe it doesn’t have to be so shoehorned in.”

Councilor Bushee commented that this is an old foundation, and she did not think the applicant wanted to change the footprint or relocate the building, but if they have to replace the stem walls, that was a different thing.

Councilor Heldmeyer restated her amendment to say:

- D. These variances are contingent upon a building that follows the exact footprint that is in the site plan being presented; and if demolition occurs, and the footprint of the building changes, they have to come back for approval of the variances.

Councilor Pfeffer asked that “exact” be replaced with “same,” i.e.,

...the ~~exact~~ same footprint....

Councilor Heldmeyer agreed to this additional change, and the amendment was accepted as friendly.

The motion for approval, as amended, passed on the following Roll Call vote:

For: Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: None.

CONSIDERATION OF BILL NO. 2003-16: ADOPTION OF ORDINANCE NO. 2003-15.

Case #M 2003-16. Brewer Oil/Double Cheese Annexation. Jim Siebert, Agent for Brewer Oil, Inc. and Double Cheese, Inc., Requests Annexation of Approximately .649 Acre of Land Located North of Rodeo Road on the North Side of Cerrillos Road. The 1999 General Plan, as Amended in 2002 by the Cerrillos Road Corridor Area Plan, is Designated as Community Commercial. The Request Includes Preliminary Development Plan (Annexation Master Plan Approval for Development of Three Commercial Buildings on 1.71 Acres of Land Located Within the Area of Annexation and on Adjoining Property Inside City Limits.

CONSIDERATION OF BILL NO. 2003-17: ADOPTION OF ORDINANCE NO. 2003-16.

Case #ZA 2003-01. Brewer Oil/Double Cheese Rezoning. Jim Siebert, Agent for Brewer Oil, Inc. and Double Cheese, Inc., Requests to Change the Zoning of Approximately .649 Acre of Land From R-1 (Single Family Residential, One Dwelling Per Acre) to C-2 (General Commercial). The Property is Located North of Rodeo Road on the North Side of Cerrillos Road and is Designated by the 1999 General Plan, as Amended in 2002 by The Cerrillos Road Corridor Area Plan, as Community Commercial.

City Planner Greg Smith reported as follows: "Ultimately the rezoning and annexation will lead to development of a project on two parcels of land that are inside the city limits, one of which is occupied by an existing service station, the other one of which is vacant; and portions of two lots that extend from the back of the city limits all the way to Rufina Street and beyond. Small portions of those lots will be rezoned and annexed as part of this application."

Mr. Smith said staff and the Planning Commission have recommended approval of the annexation and rezoning, with the following conditions:

Annexation conditions:

1. A lot consolidation plat consistent with the master plan/development plan shall be recorded concurrently with the annexation plat.
2. The annexation agreement shall include a statement that the development is subject to the Water Allocation and/or Water Offset Retrofit provisions of Ordinance No. 2002-29 and Resolution No. 2002-55 at the time of permit application or water hookup request.

Rezoning conditions:

None recommended.

Mr. Smith said staff's report to the Commission "noted some concerns with access to the property, as the project site is located very close to the right turn lanes for the Airport Road/Cerrillos intersection, and the restrictions resulting from that proximity to the intersection place severe limits on the amount of traffic that can be accommodated by driveways on this property. The concept of the project in combining the vacant property with the service station project, and consolidating the access onto and off of those parcels, does result in a better circulation pattern in that vicinity than would be the case if each parcel had its own entrance and exit driveways.

“The development plan is not, however, a specific requirement of the rezoning case, but the applicant has indicated in the Commission record that that is the plan that they intend to proceed with.”

Mr. Smith said staff also addressed concerns, in its report to the Commission, about landlocked parcels located behind, to the west, and slightly north of the property. He referred to a map in the packet. [P. 37.]

There was no one from the public wishing to speak against this application.

Agent Jim Siebert was duly sworn and reviewed a site map.

Responding to questioning from Councilor Heldmeyer, Mr. Smith referred to the site map of the various landlocked parcels (p. 37 in packet) and in particular the parcel located closest to the intersection owned by Frank O. Packard Jr. and Alton B. Packard. He said, “There is a large parcel that goes not quite as far back as Rufina, and then a smaller parcel that has frontage on Cerrillos Road but is precluded from effective access to Cerrillos Road by reason of the configuration of the improvements of the turn lanes at that intersection. While this project does not cause that parcel to be landlocked, it does not change its status, it does not contribute to a pattern of circulation within the overall parcels.

“The conclusion of the Planning Commission, after reviewing an updated traffic study submitted by the applicant, was that it was not practical to achieve access to that landlocked parcel by crossing the parcels that are proposed for development by Brewer’s and by Wendy’s. And I’m not sure staff disagrees with that conclusion, looking at the parcels that are involved in this application. Staff was concerned that the issue be carefully studied, and concerned that if perhaps this project does not create significant transportation network concerns, any further development of those long parcels lying to the north of the project should be planned together for access to Zafarano and Rufina.”

Councilor Heldmeyer asked Mr. Smith what remedy would these people have if they came in to develop.

Mr. Smith responded that an example of a remedy was contained in the proposal for development known alternately as “Dos Plazas” and “Camino Real,” and which was denied several years ago; in that project, access to the Packard parcels along with approximately eight or ten other parcels, were all consolidated via common driveways and collector roads connecting to Rufina and Zafarano. He said the only option staff could envision at this point would be consolidation of the Packard property and coordinated development with other properties, which do have direct access to Rufina and might ultimately provide access to Zafarano when it is extended northward.

Councilor Heldmeyer asked City traffic engineer Rick Devine how he felt about the traffic plan that has been proposed. She added that she assumed it didn't help the situation any, but asked if it would at least make the situation no worse than it is now.

Mr. Devine responded that the plan was reasonable for the site and worked because it was "a right-in, right-out." He commented that this was one of the busiest intersections in New Mexico.

Councilor Heldmeyer asked Mr. Devine if he thought drivers would actually go along with the plan, and Mr. Devine responded, "I think with the reconstruction of Cerrillos Road and the raised medians that they've built with the turning bays, they almost have to."

Councilor Heldmeyer asked Mr. Siebert if there was any intent to put a carwash on this property, and Mr. Siebert responded that there was not.

Councilor Heldmeyer asked Mr. Siebert if the applicant would accept a condition of approval that said a carwash would not be allowed without coming back to the Council for approval.

Mr. Siebert responded that that was acceptable.

Councilor Chavez asked Mr. Siebert if the applicant would be willing to do water harvesting using cisterns as well as surface ponding.

Mr. Siebert responded that, as a member of the Water Conservation subcommittee that is currently preparing recommendations to the Council on the use of cisterns, "the answer is yes. I think the caveat on that is that I think there has to be, along with that, some kind of consideration that it has to be part of the water budget, that there should be offsets provided as part of putting that cistern system in."

Councilor Chavez asked Mr. Siebert if he was saying that he should not have to agree to toilet retrofits if he agrees to install a cistern.

Mr. Siebert responded that the proposal that the Public Utilities Committee will hear is that "there would be a comparable offset — in other words, the water savings that's equal to the savings from the toilets would be an offset against the toilets."

Councilor Chavez commented he was considering recommending that a cistern be installed as a condition of approval.

Councilor Bushee expressed concern that requiring a cistern at this point could pose a legal concern because there is no ordinance in place mandating them.

Councilor Chavez asked City Attorney Bruce Thompson if the Council could impose such a condition. Mr. Thompson responded that he did not know at this point if the Council had the authority to do that, but if the Council were to impose a condition of approval that was acceptable subject to whatever regulations or ordinances might be adopted in the future, that might avoid the question of any kind of legal conflict.

Mayor Pro Tem Lopez pointed out to Mr. Siebert that he would have to contain the water running off all of this asphalt anyway, and so the Council was asking him to store it for landscaping and not have to use potable water as a long term issue.

Mr. Siebert responded that they could commit to “a very thorough investigation of the use of cistern systems.”

Mr. Siebert said to Councilor Chavez that the cost of a cistern system is two to four times the cost of retrofits, and even retrofits are becoming expensive.

Mr. Siebert said one of the applicants was not present tonight, as he was in Roswell attending a meeting, and he was not authorized to agree to the actual installation of a cistern.

Councilor Bushee agreed that this is an issue still under discussion by various community groups, staff, and others, but commented that the one thing everyone seems to agree on is that commercial businesses, with so much impervious paved surfaces around them, should be required to install cisterns as a condition of doing business in the city.

Councilor Bushee pointed out to Mr. Siebert that a catchment and reuse system would guarantee that this project down the road would have the necessary water for its landscaping.

Councilor Bushee asked Mr. Siebert to be flexible in agreeing to “some kind of catchment and reuse,” since it would influence her decision tonight.

Mr. Siebert said, “I agree...[but] in accepting this condition, we would not like to forego the possibility at some point in the future that it could be used as an offset.”

Councilor Bushee responded, "Absolutely. And if that's what we get passed up here, you would have complete access to that. I can't guarantee that that's going to happen up here, but it's certainly in the discussion at this point."

Mr. Siebert pointed out that, according to studies, commercial development, not residential, provides the surplus funds to the city. Speaking to the increasing number of requirements coming down the road, such as impact fees and now cisterns, he said the business community "is beginning to think, what are the limits? At what point is it not worth it to expand my business here in Santa Fe?"

Councilor Bushee spoke to the proliferation of impervious surfaces in Santa Fe where water is not captured and reused; for instance, it is very frustrating when there is two feet of water in the DeVargas Center parking lot after a hard rainstorm, and then it courses over to the Arroyo Mascaras, dumps into the river, and causes erosion.

Councilor Bushee moved for approval of Case #M 2003-16, with the conditions. Councilor Chavez seconded the motion.

Councilor Pfeffer said he thought this "excessive." He stated that various committees are discussing the viability of cisterns and what they would be valued at in terms of water conservation and offsets, and what is being done with landscaping in general. He pointed out that the project is already in compliance with codes in terms of water retention on site and recycling water to landscaped areas, and added that this is not a high end project. He cited Mr. Siebert's remarks that perhaps this wouldn't be economically viable for the applicants.

Councilor Pfeffer said, "If we're serious about water conservation and trying to make these things work, it seems to me, in fairness to this property owner and this applicant, we ought to be applying the same rules to them as to other people — and not in advance of our own discussion and applying the most stringent case with no promise of offsets at all."

Councilor Pfeffer moved to table this item to the next meeting.

The motion died for lack of a second.

Councilor Heldmeyer proposed an amendment that a condition of approval be imposed that no carwash would be built on the 1.71 consolidated acres without a return to City Council for approval to do so.

The amendment was accepted as friendly.

Councilor Ortiz suggested that Councilor Bushee's motion in the previous case (Frank case) be applied here. He recalled that the applicant in the Frank

case was asked to explore the possibility of doing cisterns, as opposed to being compelled to do it, using existing ordinances.

Councilor Bushee said she did not see this case any differently from the Frank case. She stated that she saw it as ‘a consideration of reuse of some sort, catchment, some flexibility within a range of options. There are filtration systems or catchment systems. The idea is to capture and reuse, and I think that’s the intention of the applicant.”

Councilor Ortiz asked Mr. Siebert if that was his understanding of the motion for approval, with conditions, and Mr. Siebert responded that it was not. He said his impression was that the motion for approval in this case clearly calls for a cistern system. He stated that he would prefer to have the same condition imposed as was imposed on the applicant in the previous case.

Councilor Bushee stated that her idea was to have a flexibility of options as already allowed for in the ordinance on storm drainage, but for capturing and reuse on site. She stated that the water harvesting ordinance has a section under discussion with the hope of amplifying it, but that has not gone through the committee process.

Mayor Pro Tem Lopez suggested that the condition be less performance-based. She said her plan is that the applicant not use potable water on their landscaping, but use cisterns or some kind of catchment system instead.

Councilor Ortiz asked Councilor Bushee if she wanted the same condition imposed in this case as in the previous (Frank) case.

Councilor Bushee responded that this was her intention.

Councilor Ortiz asked Mr. Siebert if the condition imposed in the prior case was acceptable to him, and Mr. Siebert responded that it was acceptable.

[The motion in the previous case directed the applicant to work within existing ordinances with an emphasis on catchment and reuse.]

The motion passed on the following Roll Call vote:

For: Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Against: None.

Councilor Bushee moved approval of Case ZA 2003-01. Councilor Ortiz seconded the motion, which passed on the following Roll Call vote:

For: Councilor Pfeffer; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.

Against: None.

PETITIONS FROM THE FLOOR

Gail Riba

Ms. Riba thanked Councilors Coss, Pfeffer and Lopez for riding in the Rail Trail event on Saturday. She also thanked Councilors Bushee and Heldmeyer for “riding in spirit in attending the event.” She reminded the Council that the Bikeways Master Plan, adopted in 1993, has still not been funded.

Engineering director Robert Romero reported to Councilors on the resolution regarding an underpass or overpass on St. Francis Drive. He said the City will shortly begin working with Parsons Brinckerhoff on a study that will take about four months to complete.

ADJOURN

Its business completed, the Governing Body adjourned the meeting at approximately 8:15 p.m.

Approved by:

Mayor Larry A. Delgado

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully Submitted:

Judith S. Beatty, City Council Reporter